IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Court's order whether the case is or not approved for reporting

(Chapter VIII, Rule 32(2) (b)

Description of Case

WPMB No. 192 of 2002, decided on 23.07.03

Krishna Raj Singh Vs. University of Roorkee & ors.

A.F.R. (Approved for Reporting)

~~Not approved for reporting~~

Initials of Judge

Date 23.7.03

Note:- Bench Reader will attach this at the top of the first page of the judgment when it is put up before the Judge for signature.

Court No.2

Writ Petition No.192 of 2002 (M/B)

Krishna Raj Singh	……	Petitioners
	Vs.	
University of Roorkee and Others	…….. ….	Respondents

Hon. P.C.Verma, A.C.J.
Hon. Rajesh Tandon, J.

Heard Sri B.P.S. Mer learned counsel for the petitioner and Sri U. K. Uniyal, learned counsel for the respondents.

Undisputed facts between the parties are that the petitioner appeared in pre-medical test held for the session 2001-02. He secured 136 ranking in the merit list. In the first counseling, he could not appear on account of his M.Sc. examination and he sent his representation. In the second counseling, which was held on 23.02.2002, the petitioner could not appear as on the same date he had to appear in the M.Sc. final examination. He sent again his representation. The representative of the petitioner was refused to participate in counseling for want of authorisation in his favour. In this counseling, the candidates of lesser marks have been selected for admission.

According to the petitioner after coming to know that the candidate of lesser marks have been admitted, he approached to Director, Medical Education, who assured him to give admission as his case was under consideration. Since no admission was given to the petitioner, the petitioner filed the instant writ petition.

Admittedly, candidate, namely, Anil Kumar Gangwar having lesser marks has been admitted.

The provision relating to the counseling can not override the rules governing the admission based on merit. The provision for counseling has been made only to facilitate the meritorious candidates to have choice of the medical colleges.

Clause 5 and 6 of the rules as provided in the Boucher for counseling reads as under:

> "5. The candidates appear before the counseling board in order of merit in which their names are called and the following documents are checked for their authenticity to establish the eligibility or other wise by the counseling board.

(i) Original mark sheets and pass certificates in support of fulfilling minimum prescribed academic eligibility criteria.
(ii) Domicile certificate.
(iii) Original certificate issued by the competent authority as mentioned in the information brochure for UPMT-2001 in support of caste (e.g. SC/ST/OBC).
(iv) Original certificate issued by the competent authority as mentioned in the information brochure for UPMT-2001 if claiming benefit under
    (a) Reservation for dependants of freedom fighter.
    (b) Reservation for sons/daughter of the service personnel who have lost their lives or have been incapacitated in war.
    (c) Reservation for physically handicapped.
(v) Original admit card issued for appearing at UPMT- 2001 examination.
(vi) Receipt for counseling registration fee.
(vii) Authorization letter of the candidate in use he/she is not appearing in the counseling.

6. If the Counseling Board is convinced that the candidate fulfills all the criteria for admission, he/she is issued a provisional allotment/admission letter, advising the candidate to report to the head of the institution where admission is allotted by the Counseling Board, against deposit of a bank draft of Rs. 2000/- issued in favour of Director General, Medical & Health, Uttaranchal, Government payable at Dehradun as security deposit.

(Note: The security deposit of Rs. 2000/- is forfeited if the candidate who has been allotted a seat does not take admission in that institution within the stipulated period mentioned in the provisional admission letter. In case, the candidate takes admission, the security fee is adjusted against his payments to the institution)."

Sri U.K. Uniyal, learned counsel for the respondents submitted that the petitioner himself choose not to appear in the counseling and a seat can not be allowed to remain vacant awaiting the petitioner to come for the counseling as per his own convenience. Since the academic session was to start, therefore, after entire counseling was done out of the candidates who appeared in the counseling and the petitioner can not blame the respondent as he himself slept over his own rights for admission. Be that it may, since the candidate having lesser mark has been admitted, the petitioner could have been given admission by accommodating the petitioner when he approached the Director Medical Education.

Having regards to the facts and circumstances of the case, we provide that if any vacancy in that academic session for any course for which the pre-medical test was held is available and the petitioner is willing to seek admission against the said seat available, he may be given admission in the current session within a period of one month from the date of production of certified copy of this order.

The petition is disposed of accordingly.

Dt.23.07.2003 (P.C. Verma, A.C.J.) (Rajesh Tandon, J.)

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